

# Exhibit C

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

PLAINTIFF(S)

**WILLIAM J. BALBACH & MARY  
BALBACH**

VS.

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**AMENDED EXHIBIT B TO PRETRIAL  
ORDER #8 –  
FIRST AMENDED MASTER SHORT  
FORM COMPLAINT AND JURY  
TRIAL DEMAND**

1. Plaintiff, William J. Balbach & Mary Balbach, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, William J. Balbach, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Plaintiff's Spouse, Mary Balbach, is a resident and citizen of the State of Georgia, and claims damages as set forth below.

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where

this Complaint would have been filed absent the direct filing order by this Court is The United States District Court, Southern District of Georgia, Waycross Division.

6. Plaintiff brings this action *[check the applicable designation]*:

  X   On behalf of [himself/herself];

           In a representative capacity as the    of the    having been duly appointed as the    by the    Court of   . A copy of the Letters of Administration for a wrongful death claim is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.

*[Cross out if not applicable.]*

### **FACTUAL ALLEGATIONS**

7. On or about January 24, 2007, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of [his/her] Right Knee Replacement at the Satilla Regional Medical Center, 410 Darling Avenue in Waycross, GA, by Dr. John W. Cope.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The Pathogen identified was unknown.

9. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone multiple stages procedures on or about, at April 3, 2007, June 6, 2007 and

August 10, 2007 at The Satilla Regional Medical Center in Waycross, GA by Dr(s). John Cope.

**ALLEGATIONS AS TO INJURIES**

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

  X   INJURY TO HERSELF/HIMSELF  
       INJURY TO THE PERSON REPRESENTED  
       WRONGFUL DEATH  
       SURVIVORSHIP ACTION  
  X   ECONOMIC LOSS

(b) Plaintiff's spouse claims damages as a result of (check all that are applicable): *[Cross out if not applicable.]*

  X   LOSS OF SERVICES  
  X   LOSS OF CONSORTIUM

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff(s).

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

  X   FIRST CAUSE OF ACTION - NEGLIGENCE;  
  X   SECOND CAUSE OF ACTION - STRICT LIABILITY;  
       FAILURE TO WARN  
       DEFECTIVE DESIGN AND MANUFACTURE  
  X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

- ☒ FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA AND/OR PENNSYLVANIA O.C.G.A., §§ 11-2-314-, et seq and/or 13Pa.Stat.Ann. §§2314 et seq;
- ☒ FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- ☒ SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- ☒ SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- ☒ EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;
- ☒ NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF GEORGIA AND/OR PENNSYLVANIA O.C.G.A., §§10-1-372, et seq; and/or 73Pa.Stat. §§201-1 et seq
- ☒ TENTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION;
- ☒ ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;
- ☒ TWELFTH CAUSE OF ACTION – FRAUDULENT CONCEALMENT;
- ☒ THIRTEENTH CAUSE OF ACTION – LOSS OF CONSORTIUM; and
- ☐ FOURTEENTH CAUSE OF ACTION – UNJUST ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

See Exhibit A

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: June 14, 2017

Respectfully submitted,

/s/ Christopher L. Coffin  
Christopher L. Coffin (LA Bar # 27902)  
Nicholas R. Rockforte (LA Bar # 31305)  
Jessica A. Perez (LA Bar # 34024)  
Pendley, Baudin & Coffin, L.L.P  
1515 Poydras Street, Suite 1400  
New Orleans, LA 70112  
Telephone: 504-355-0086  
Facsimile: 504-523-0699  
[ccoffin@pbclawfirm.com](mailto:ccoffin@pbclawfirm.com)  
[nrockforte@pbclawfirm.com](mailto:nrockforte@pbclawfirm.com)  
[jperez@pbclawfirm.com](mailto:jperez@pbclawfirm.com)

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

**MASTER SHORT FORM COMPLAINT  
AND JURY TRIAL DEMAND**

**PLAINTIFF**

**IRMA GREEN**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

1. Plaintiff, Irma Green, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Irma Green, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Plaintiff's Spouse, \_\_\_\_\_, is a resident and citizen of the State of \_\_\_\_\_, and claims damages as set forth below.

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the Northern District of Georgia.

6. Plaintiff brings this action *[check the applicable designation]*:

  X   On behalf of herself;

**FACTUAL ALLEGATIONS**

7. On or about July 18, 2005, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of her left knee surgery at North Fulton Hospital located at 2500 Hospital Blvd., in Roswell, GA by Dr. Jeffrey J. Albert.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The pathogen identified is unknown.

9. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone multiple staged revision procedures on or about October 2005 and November 2005 North Fulton Hospital located at 2500 Hospital Blvd., in Roswell, GA by Dr. Jeffrey J. Albert.

**ALLEGATIONS AS TO INJURIES**

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

  X   INJURY TO HERSELF/HIMSELF

       INJURY TO THE PERSON REPRESENTED

       WRONGFUL DEATH

       SURVIVORSHIP ACTION

  X   ECONOMIC LOSS

11. Defendants, by their actions or inactions, proximately caused the injuries to



Plaintiffs.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

- ☒ FIRST CAUSE OF ACTION - NEGLIGENCE;
- ☒ SECOND CAUSE OF ACTION - STRICT LIABILITY;
- ☒ FAILURE TO WARN
- ☒ DEFECTIVE DESIGN AND MANUFACTURE
- ☒ THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;
- ☒ FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA §§ 11-2-314, et seq;
- ☒ FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- ☒ SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- ☒ SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- ☒ EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;
- ☒ NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF GEORGIA §§10-1-372, et seq;
- ☒ TENTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION;
- ☒ ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;

X   TWELFTH CAUSE OF ACTION – FRAUDULENT  
CONCEALMENT;

\_\_\_\_\_ THIRTEENTH CAUSE OF ACTION – LOSS OF  
CONSORTIUM; and

  X   FOURTEENTH CAUSE OF ACTION – UNJUST  
ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action  
under applicable state law:

Gross Negligence/Malice\_\_\_\_\_

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a  
trial by jury as to all claims in Complaint so triable.

Dated: July 11, 2017

Respectfully submitted,

/s/ Wesley G. Barr

Wesley G. Barr (LA #32332)

Alfred A. Olinde (LA #20061)

**THE OLINDE FIRM, LLC**

400 Poydras Street, Suite 1980

New Orleans, LA 70130

Tel: (504) 587-1440

Fax: (504) 587-1577

Email: [wbarr@olindefirm.com](mailto:wbarr@olindefirm.com)

[folinde@olindefirm.com](mailto:folinde@olindefirm.com)

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming Products Liability Litigation	MDL No. 15-2666 (JNE/FLN)
<b>PLAINTIFF</b>  <b>DARREN V. JOHNSON</b>  <b>VS.</b>  <b>3M COMPANY AND ARIZANT HEALTHCARE, INC.</b>	<b>MASTER SHORT FORM COMPLAINT AND JURY TRIAL DEMAND</b>

1. Plaintiff, Darren V. Johnson, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Darren V. Johnson, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the District of Minnesota.

5. Plaintiff brings this action on behalf of himself.

**FACTUAL ALLEGATIONS**

6. On or about January 23, 2006, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of his left total hip arthroplasty (“THA”) at Emory University Hospital Midtown, in Atlanta, Georgia, by Dr. Shervin Oskouei.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The Pathogen was identified as MSSA.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff underwent an irrigation and debridement procedure on or about February 2, 2006, repeat irrigation and debridement procedure on or about February 6, 2006, and further irrigation and debridement procedure on or about February 9, 2006, at Emory University Hospital Midtown, in Atlanta, Georgia, by Dr. Shervin Oskouei.

**ALLEGATIONS AS TO INJURIES**

9. (a) Plaintiff claims damages as a result of:

  **X**   INJURY TO HERSELF/HIMSELF

\_\_\_\_\_ INJURY TO THE PERSON REPRESENTED

\_\_\_\_\_ WRONGFUL DEATH

\_\_\_\_\_ SURVIVORSHIP ACTION

X   ECONOMIC LOSS

(b) Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

10. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference:

  X   FIRST CAUSE OF ACTION - NEGLIGENCE;

  X   SECOND CAUSE OF ACTION - STRICT LIABILITY;

  X   FAILURE TO WARN

  X   DEFECTIVE DESIGN AND MANUFACTURE

  X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

  X   FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA, GA. CODE ANN. § 11-2-314;

  X   FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;

  X   SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

  X   SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

  X   EIGHTH CAUSE OF ACTION- VIOLATION OF THE

MINNESOTA FALSE ADVERTISING ACT;

  X  

NINTH CAUSE OF ACTION- CONSUMER FRAUD

AND/OR UNFAIR AND DECEPTIVE TRADE

PRACTICES UNDER LAW OF THE STATE OF

GEORGIA, GA. CODE ANN. § 10-1-372;

  X  

TENTH CAUSE OF ACTION – NEGLIGENT

MISREPRESENTATION;

  X  

ELEVENTH CAUSE OF ACTION- FRAUDULENT

MISREPRESENTATION;

  X  

TWELFTH CAUSE OF ACTION – FRAUDULENT

CONCEALMENT;

      

THIRTEENTH CAUSE OF ACTION – LOSS OF

CONSORTIUM; and

  X  

FOURTEENTH CAUSE OF ACTION – UNJUST

ENRICHMENT.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;

7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: July 25, 2017

Respectfully submitted,

KENNEDY HODGES, LLP  
By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF



**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

**PLAINTIFF**

**GERALDINE QUESINBERRY**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**MASTER SHORT FORM  
COMPLAINT AND JURY TRIAL  
DEMAND**

1. Plaintiff, Geraldine Quesinberry, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Geraldine Quesinberry, is a resident and citizen of the State of West Virginia and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the District of Minnesota.

5. Plaintiff brings this action on behalf of herself.

**FACTUAL ALLEGATIONS**

6. On or about July 19, 2005, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of her right total hip arthroplasty (“THA”) at Memorial University Medical Center in Savannah, Georgia by Dr. Charles Hope.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The pathogen was identified as staphylococcus epidermitis.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff underwent an irrigation and debridement on or about February 20, 2006 at Memorial University Medical Center in Savannah, Georgia by Dr. Charles Hope.

**ALLEGATIONS AS TO INJURIES**

9. (a) Plaintiff claims damages as a result of:

  X   INJURY TO HERSELF/HIMSELF

       INJURY TO THE PERSON REPRESENTED

       WRONGFUL DEATH

       SURVIVORSHIP ACTION

  X   ECONOMIC LOSS

(b) Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

10. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference:

- X   FIRST CAUSE OF ACTION - NEGLIGENCE;
- X   SECOND CAUSE OF ACTION - STRICT LIABILITY;
- X   FAILURE TO WARN
- X   DEFECTIVE DESIGN AND MANUFACTURE
- X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;
- X   FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA, GA. CODE ANN. § 11-2-314;
- X   FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- X   SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- X   SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- X   EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;

- X   NINTH CAUSE OF ACTION- CONSUMER FRAUD  
AND/OR UNFAIR AND DECEPTIVE TRADE  
PRACTICES UNDER LAW OF THE STATE OF  
GEORGIA, GA. CODE ANN. § 10-1-372;
- X   TENTH CAUSE OF ACTION – NEGLIGENT  
MISREPRESENTATION;
- X   ELEVENTH CAUSE OF ACTION- FRAUDULENT  
MISREPRESENTATION;
- X   TWELFTH CAUSE OF ACTION – FRAUDULENT  
CONCEALMENT;
- THIRTEENTH CAUSE OF ACTION – LOSS OF  
CONSORTIUM; and
- X   FOURTEENTH CAUSE OF ACTION – UNJUST  
ENRICHMENT.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and

8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: July 27, 2017

Respectfully submitted,

KENNEDY HODGES, LLP  
By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming Products Liability Litigation	MDL No. 15-2666 (JNE/FLN)
<b>PLAINTIFF</b>  <b>JOHN R. BENJAMIN</b>  <b>VS.</b>  <b>3M COMPANY AND ARIZANT HEALTHCARE, INC.</b>	<b>MASTER SHORT FORM COMPLAINT AND JURY TRIAL DEMAND</b>

1. Plaintiff, John R. Benjamin, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, John R. Benjamin, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the District of Minnesota.

5. Plaintiff brings this action on behalf of himself.

**FACTUAL ALLEGATIONS**

6. On or about November 13, 2006, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of his right total knee arthroplasty (“TKA”) at Fannin Regional Hospital, in Blue Ridge, Georgia, by Dr. Douglas Nuelle.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJJ”). The Pathogen was identified as MSSA.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff underwent an irrigation and debridement procedure on or about March 15, 2007, repeat irrigation and debridement procedure on or about March 20, 2007, and removal of implant and installation of an antibiotic spacer on or about May 23, 2007, at Fannin Regional Hospital, in Blue Ridge, Georgia, by Dr. Douglas Nuelle.

**ALLEGATIONS AS TO INJURIES**

9. (a) Plaintiff claims damages as a result of:

  X   INJURY TO HERSELF/HIMSELF

\_\_\_\_\_ INJURY TO THE PERSON REPRESENTED

\_\_\_\_\_ WRONGFUL DEATH

\_\_\_\_\_ SURVIVORSHIP ACTION

X   ECONOMIC LOSS

(b) Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

10. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference:

  X   FIRST CAUSE OF ACTION - NEGLIGENCE;

  X   SECOND CAUSE OF ACTION - STRICT LIABILITY;

  X   FAILURE TO WARN

  X   DEFECTIVE DESIGN AND MANUFACTURE

  X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

  X   FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA, GA. CODE ANN. § 11-2-314;

  X   FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;

  X   SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

  X   SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

  X   EIGHTH CAUSE OF ACTION- VIOLATION OF THE



MINNESOTA FALSE ADVERTISING ACT;

  X  

NINTH CAUSE OF ACTION- CONSUMER FRAUD  
AND/OR UNFAIR AND DECEPTIVE TRADE  
PRACTICES UNDER LAW OF THE STATE OF  
GEORGIA, GA. CODE ANN. § 10-1-372;

  X  

TENTH CAUSE OF ACTION – NEGLIGENT  
MISREPRESENTATION;

  X  

ELEVENTH CAUSE OF ACTION- FRAUDULENT  
MISREPRESENTATION;

  X  

TWELFTH CAUSE OF ACTION – FRAUDULENT  
CONCEALMENT;

      

THIRTEENTH CAUSE OF ACTION – LOSS OF  
CONSORTIUM; and

  X  

FOURTEENTH CAUSE OF ACTION – UNJUST  
ENRICHMENT.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;

7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: August 9, 2017

Respectfully submitted,

KENNEDY HODGES, LLP  
By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

PLAINTIFF(S)

Douglas Babb

VS.

3M COMPANY AND ARIZANT  
HEALTHCARE, INC.

**AMENDED EXHIBIT B TO  
PRETRIAL ORDER #8 –  
FIRST AMENDED MASTER SHORT  
FORM COMPLAINT AND JURY  
TRIAL DEMAND**

1. Plaintiff, Douglas Babb, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Douglas Babb, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. ~~Plaintiff's Spouse, \_\_\_\_\_, is a resident and citizen of the State of \_\_\_\_\_, and claims damages as set forth below.~~  
*[Cross out Spousal Claim if not applicable.]*

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where

this Complaint would have been filed absent the direct filing order by this Court is U.S. District Court Middle District of Georgia

6. Plaintiff brings this action *[check the applicable designation]*:

☒

On behalf of [himself/herself];

☐

In a representative capacity as the \_\_\_\_\_ of the

\_\_\_\_\_ having been duly appointed as the

\_\_\_\_\_ by the \_\_\_\_\_ Court of

\_\_\_\_\_. A copy of the Letters of Administration

for a wrongful death claim is annexed hereto if such letters are

required for the commencement of such a claim by the Probate,

Surrogate or other appropriate court of the jurisdiction of the decedent.

*[Cross out if not applicable.]*

### **FACTUAL ALLEGATIONS**

7. On or about July 5, 2006, Plaintiff underwent surgery

during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was

used during the course and scope of [his/her] Right total knee replacement [Type

of Surgery] at the Coliseum Medical Center 350 Hospital Drive [medical

center and address], in Macon, GA [city and state], by

Dr. Derrick Phillips.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and

proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff

developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection

(“DJI”). The Pathogen identified was \_\_\_\_\_ (*if known*).

9. As a result of Plaintiff's infection caused by the Bair Hugger, Plaintiff has undergone I&D; Debridement with removal and placement of a cement spacer; Above the knee amputation of the right leg [Describe treatment(s) received, e.g., revision arthroplasty, wound vac treatment, multiple staged procedures, etc.] on or about 9/7/2006; 9/21/2006; 10/5/2006, at Coliseum Medical Center 350 Hospital Drive, Macon, GA 31217 [medical center(s) and address(es)] by Dr(s). Derrick Phillips. [Cross out if not applicable.]

**ALLEGATIONS AS TO INJURIES**

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

- ☒ INJURY TO HERSELF/HIMSELF
- ☒ INJURY TO THE PERSON REPRESENTED
- ☐ WRONGFUL DEATH
- ☐ SURVIVORSHIP ACTION
- ☒ ECONOMIC LOSS

(b) Plaintiff's spouse claims damages as a result of (check all that are applicable): [Cross out if not applicable.]

- ☐ LOSS OF SERVICES
- ☐ LOSS OF CONSORTIUM

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff(s).

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

- ☒ FIRST CAUSE OF ACTION - NEGLIGENCE;

- ☒ SECOND CAUSE OF ACTION - STRICT LIABILITY;
- ☒ FAILURE TO WARN
- ☒ DEFECTIVE DESIGN AND MANUFACTURE
- ☒ THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;
- ☒ FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF Georgia, O.C.G.A. §§ 11-2-314 ;
- ☒ FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- ☒ SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- ☒ SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- ☒ EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;
- ☒ NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF Georgia, O.C.G.A. §§ 10-1-390 et seq. ;
- ☒ TENTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION;
- ☒ ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;
- ☒ TWELFTH CAUSE OF ACTION – FRAUDULENT CONCEALMENT;
- ☐ THIRTEENTH CAUSE OF ACTION – LOSS OF CONSORTIUM; and
- ☒ FOURTEENTH CAUSE OF ACTION – UNJUST ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

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*[Cross out if not applicable.]*

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: 10/20/2017

Respectfully submitted,  
DAVIS & CRUMP, P.C.  
/s/ Martin D. Crump  
Martin D. Crump (MSB #10652)  
Robert D. Cain, Jr. (MSB #104283)  
2601 Fourteenth Street  
Gulfport, MS 39507  
Phone: (228) 863-6000

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

**PLAINTIFF**

**GARY BENTSON**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**MASTER SHORT FORM  
COMPLAINT AND JURY TRIAL  
DEMAND**

1. Plaintiff, Gary Bentson, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Gary Bentson, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the District of Minnesota.

5. Plaintiff brings this action on behalf of himself.



**FACTUAL ALLEGATIONS**

6. On or about March 9, 2005, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of his right total knee arthroplasty (“TKA”) at Houston Medical Center, in Warner Robins, Georgia, by Dr. J.W. Spivey, Jr.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The Pathogen was not identified.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff underwent irrigation and debridement surgery on or about March 19, 2005, revision surgery on or about January 1, 2011, and removal of implant and installation of an antibiotic spacer on or about August 20, 2012, at Houston Medical Center, in Warner Robins, Georgia, by Dr. J.W. Spivey, Jr. and Dr. Todd Kinnebrew.

**ALLEGATIONS AS TO INJURIES**

9. (a) Plaintiff claims damages as a result of:

  **X**   INJURY TO HERSELF/HIMSELF

\_\_\_\_\_ INJURY TO THE PERSON REPRESENTED

\_\_\_\_\_ WRONGFUL DEATH

\_\_\_\_\_ SURVIVORSHIP ACTION

X   ECONOMIC LOSS

(b) Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

10. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference:

  X   FIRST CAUSE OF ACTION - NEGLIGENCE;

  X   SECOND CAUSE OF ACTION - STRICT LIABILITY;

  X   FAILURE TO WARN

  X   DEFECTIVE DESIGN AND MANUFACTURE

  X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

  X   FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA, GA. CODE ANN. § 11-2-314;

  X   FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;

  X   SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

  X   SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

  X   EIGHTH CAUSE OF ACTION- VIOLATION OF THE

MINNESOTA FALSE ADVERTISING ACT;

  X  

NINTH CAUSE OF ACTION- CONSUMER FRAUD

AND/OR UNFAIR AND DECEPTIVE TRADE

PRACTICES UNDER LAW OF THE STATE OF

GEORGIA, GA. CODE ANN. § 10-1-372;

  X  

TENTH CAUSE OF ACTION – NEGLIGENT

MISREPRESENTATION;

  X  

ELEVENTH CAUSE OF ACTION- FRAUDULENT

MISREPRESENTATION;

  X  

TWELFTH CAUSE OF ACTION – FRAUDULENT

CONCEALMENT;

      

THIRTEENTH CAUSE OF ACTION – LOSS OF

CONSORTIUM;

  X  

FOURTEENTH CAUSE OF ACTION – UNJUST

ENRICHMENT; and

  X  

FIFTEENTH CAUSE OF ACTION – PUNITIVE

DAMAGES.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;

5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment;
8. Punitive damages; and
9. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: December 7, 2017

Respectfully submitted,

KENNEDY HODGES, LLP  
By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

**PLAINTIFF**

**ROBERT ROMMER**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.**

**MASTER SHORT FORM  
COMPLAINT AND JURY TRIAL  
DEMAND**

1. Plaintiff, Robert Rommer, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Robert Rommer, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Jurisdiction is proper based upon diversity of Citizenship.

4. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the District of Minnesota.

5. Plaintiff brings this action on behalf of himself.

### **FACTUAL ALLEGATIONS**

6. On or about November 12, 2007, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of his right total knee arthroplasty (“TKA”) at Piedmont Hospital, in Atlanta, Georgia by Dr. Allen McDonald, III.

7. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). The pathogen was identified as staphylococcus epidermidis and coagulase-negative staphylococcus.

8. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff underwent an irrigation and debridement on or about November 26, 2007 at Piedmont Hospital in Atlanta, Georgia by Dr. Allen McDonald, III. Plaintiff underwent removal of prosthesis and insertion of an antibiotic spacer on or about August 4, 2008, and reimplantation of prosthesis on or about December 15, 2008 at Piedmont Hospital in Atlanta, Georgia by Dr. Allen McDonald, III. Due to recurrent infection, Plaintiff underwent an irrigation and debridement on or about August 8, 2011 at Piedmont Hospital in Atlanta, Georgia by Dr. Allen McDonald, III. Plaintiff underwent removal of the prosthesis and insertion of antibiotic spacer on or about March 6, 2013 at Piedmont Hospital in Atlanta, Georgia by Dr. Allen McDonald, III.

### **ALLEGATIONS AS TO INJURIES**

9. (a) Plaintiff claims damages as a result of:

X   INJURY TO HERSELF/HIMSELF

\_\_\_\_\_ INJURY TO THE PERSON REPRESENTED

\_\_\_\_\_ WRONGFUL DEATH

\_\_\_\_\_ SURVIVORSHIP ACTION

  X   ECONOMIC LOSS

(b) Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

**DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

10. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference:

  X   FIRST CAUSE OF ACTION - NEGLIGENCE;

  X   SECOND CAUSE OF ACTION - STRICT LIABILITY;

  X   FAILURE TO WARN

  X   DEFECTIVE DESIGN AND MANUFACTURE

  X   THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

  X   FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF GEORGIA, GA. CODE ANN. § 11-2-314;

  X   FIFTH CAUSE OF ACTION- VIOLATION OF THE

MINNESOTA PREVENTION OF CONSUMER FRAUD  
ACT;

  X  

SIXTH CAUSE OF ACTION – VIOLATION OF THE  
MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

  X  

SEVENTH CAUSE OF ACTION- VIOLATION OF THE  
MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

  X  

EIGHTH CAUSE OF ACTION- VIOLATION OF THE  
MINNESOTA FALSE ADVERTISING ACT;

  X  

NINTH CAUSE OF ACTION- CONSUMER FRAUD  
AND/OR UNFAIR AND DECEPTIVE TRADE  
PRACTICES UNDER LAW OF THE STATE OF  
GEORGIA, GA. CODE ANN. § 10-1-372;

  X  

TENTH CAUSE OF ACTION – NEGLIGENT  
MISREPRESENTATION;

  X  

ELEVENTH CAUSE OF ACTION- FRAUDULENT  
MISREPRESENTATION;

  X  

TWELFTH CAUSE OF ACTION – FRAUDULENT  
CONCEALMENT;

      

THIRTEENTH CAUSE OF ACTION – LOSS OF  
CONSORTIUM;

  X  

FOURTEENTH CAUSE OF ACTION – UNJUST  
ENRICHMENT; and

  X  

FIFTEENTH CAUSE OF ACTION – PUNITIVE



DAMAGES.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment;
8. Punitive damages; and
9. All other relief as the Court deems necessary, just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: January 5, 2018

Respectfully submitted,

KENNEDY HODGES, LLP  
By: /s/ David W. Hodges  
David W. Hodges  
dhodges@kennedyhodges.com  
Gabriel A. Assaad  
gassaad@kennedyhodges.com  
4409 Montrose Blvd. Ste 200  
Houston, TX 77006  
Telephone: (713) 523-0001  
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF